IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 18474 of 2004

Between:

B.M. Rao, S/o Rajeshwar Rao,aged about 50 years,

Driver, E.No.104292, R/o Plot No. 813/15-B, V.B.N. Reddy Nagar,

Vanasthalipuram, Ranga Reddy District.

..... PETITIONER

AND

The Depot Manager, APSRTC, Ibrahimpatnam Depot,
Ranga Reddy District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the Proceedings No. P1/2(10)/04-IBPM, Dated 21-9-2004 issued by the Respondent placing the petitioner under suspension with immediate effect pending enquiry into the allegations leveled against me as arbitrary, illegal , unjust, contrary to law, contrary to law laid down by the Honourable /Apex Court and this Honourable High Court, contrary to the regulations and circulars issued by the corporation, and also in violation of Articles 14 and 21 of the Constitution of India and set aside the same.

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondent: MR.V.T.M.PRASAD

The Court made the following:

ORDER:

The petitioner is working as a driver in the respondent Corporation from 19.12.1984. He claims that he maintained clean record and received awards as best driver. He was issued a charge sheet dated 18.09.2004 for causing an accident, result in the death of a five years old child, and he has to face the enquiry. Simultaneously, the petitioner was kept under suspension through the proceedings dated 21.09.2004 by observing that a preliminary enquiry conducted regarding the accident, concluded that the petitioner was responsible for the accident. Therefore, the petitioner was kept under suspension in the public interest pending disciplinary action against him.

2. In the preliminary enquiry report, it was concluded that the accident occurred due to the mistake of the child only and the driver is held partially responsible for not observing to his right side.

3. The reason given in the order of suspension is not in consonance with the observation made in the preliminary enquiry report. Keeping in view 20 years service of the petitioner and the nature of the charge, this is not a fit case for ordering suspension. Hence, the proceedings dated 21.09.2004, passed by the respondent, to the extent of suspension, is set aside. The respondent is at liberty to proceed with the enquiry against the petitioner according to the rules and the regulations.

4. The writ petition is, accordingly, allowed. No order as to costs.

Note:

Issue CC in three days

B/o.

Dsr

ASSISTANT REGISTRAR

To:

1. The Depot Manager,

APSRTC, Ibrahimpatnam Depot,

Rangareddy District

2. Two CD copies.